

D.B.CIVIL WRIT PETITION NO.5795/2004
M/S SYNERGY STEELS LTD. VS. UNION OF INDIA AND ORS.

11.08.2006

HON'BLE MRS.GYAN SUDHA MISRA, J.
HON'BLE MR.PREM SHANKER ASOPA, J.

Mr. PK Kasliwal for the petitioner.
Mr. KK Sharma for the respondents.

This writ petition has been filed against the order dated 19.9.2002 passed by the Additional District Judge NO.2, Alwar by which he had refused to entertain the interim application which has been passed in appeal NO.45/2001 filed against the order by which the suit of the petitioner had been dismissed for want of jurisdiction.

While the appeal was pending, the petitioner filed an application for stay of recovery which had been issued against the petitioner-Company which had been challenged in the suit. The application was rejected by the learned Additional District Judge No.2 Alwar on 19.9.2002 and thereafter the appeal itself was rejected on 5.6.2004.

We find substance in the argument of the counsel for the respondents that when the appeal itself was dismissed subsequently then this writ petition challenging the interim order refusing to stay of recovery cannot be entertained. Besides this, the petitioner has already preferred second appeal which is pending consideration before the High Court against the

order of the trial Court as also the first appellate Court refusing to entertain the suit. The writ petition is not fit to be entertained for an additional reason that he cannot be permitted to initiate a parallel proceeding which had been initiated before the trial Court by way of this writ petition. For all these reasons the writ petition is absolutely without substance. The Writ petition stands dismissed at the admission stage.

(PREM SHANKER ASOPA)

(GYAN SUDHA MISRA)J.

PCG